



6560-50

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0721; FRL-9609-2]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Adhesives and Sealants Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. The revision adds section 4.0, under Regulation 1141, relating to the control of emissions of volatile organic compounds (VOC) from the manufacture, sale, use, or application of adhesives, sealants, primers, and solvents. EPA is approving this SIP revision to meet the requirements of a reasonably available control technology (RACT) rule for the miscellaneous industrial adhesives control techniques guideline (CTG) category in accordance with the requirements of the Clean Air Act (CAA).

DATES: *Effective date:* This final rule is effective on [insert date 30 days from date of publication].

ADDRESSES: EPA has established a docket for this action under Docket ID Number **EPA-R03-OAR-2011-0721**. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and

will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814-2036, or by e-mail at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On September 23, 2011 (76 FR 59087), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the Delaware SIP revision that adds section 4.0 – Adhesives and Sealants under Regulation 1141 – Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products in order to reduce VOCs from commercially-used adhesive and sealant products. The revision is part of Delaware’s strategy to achieve and maintain the 8-hour ozone national ambient air quality standard (NAAQS) throughout the State. EPA received no comments on the NPR to approve Delaware’s SIP revision. The formal SIP revision was submitted by the State of Delaware on June 9, 2009.

II. Summary of SIP Revision

The new section 4.0 adds regulations that: (1) set standards for the application of adhesives, sealants, adhesive primers, and sealant primers by providing options for applicators either to use a product with a VOC content equal to or less than a specified limit or to use add-on controls; (2) add definitions and terms for new product categories; (3) establish that any person may not use or apply at the facility an adhesive, sealant, adhesive primer or sealant primer that exceeds the VOC content limits; (4) specify requirements for person of a facility that uses or applies a surface preparation solvent or cleanup solvent or removes an adhesive, sealant, adhesive primer, and sealant primer from the parts of spray application equipment; (5) provide for an alternative add-on control system requirement of at least 85 percent overall control efficiency (capture and destruction), by weight; (6) specify requirements for proper storage and disposal, work practices, surface preparation, and cleanup solvent composition; and (7) specify exemptions, as well as registration and product labeling requirements, recordkeeping requirements, and test methods and compliance procedures. These SIP revisions meet the requirement to adopt a RACT for the miscellaneous industrial adhesives CTG category. Other specific requirements and the rationale for EPA's proposed action are explained in the Technical Support Document (TSD) prepared for the September 23, 2011 proposed rulemaking action which is available online at www.regulations.gov, Docket number **EPA-R03-OAR-2011-0721**. No public comments were received on the NPR.

III. Final Action

EPA is approving the Delaware SIP revision that adds section 4.0 - Adhesives and Sealants to Regulation 1141 - Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Delaware’s control of VOCs from adhesives and sealants may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 et seq.

Dated: December 08, 2011

W. C. Early, Acting
Regional Administrator,
Region III.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart I-- Delaware

2. In § 52.420, the table in paragraph (c) is amended by adding an entry for Regulation 1141, Section 4.0 to read as follows:

§ 52.420 **Identification of plan.**

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(c) * * *

EPA-APPROVED REGULATIONS IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
* *	* *	* *	* *	
1141	Limiting Emissions of Volatile Organic Compounds from Consumer and Commercial Products			
* *	* *	* *	* *	
Section 4.0	Adhesives & Sealants	4/11/09	<u>[Insert Federal Register publication date]</u> <u>[Insert page number where the document begins]</u>	Addition of VOC limits for adhesive and sealant products, including 25 adhesives, 4 adhesive primers, 5 sealants, and 3 sealant primers.

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
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[FR Doc. 2011-32646 Filed 12/21/2011 at 8:45 am; Publication Date: 12/22/2011]